

REMARKS

Claims 1-18 are pending in this application. By this Amendment, claim 3 is amended.

I. Claim Objections

The Office Action objects to claim 3 as not being clear. By this Amendment, claim 3 is amended to clarify the claim. It is respectfully requested that the objection be withdrawn.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration (as the amendments amplify issues previously discussed throughout prosecution); (c) satisfy a requirement of form asserted in the previous Office Action; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

II. Claim Rejections

Claims 1-18 are rejected under 35 U.S.C. §103(a) over "Applicants Admitted Prior Art (AAPA)". The rejection is respectfully traversed.

The subject matter characterized as AAPA in the Office Action is in fact identified as "related art" in the specification, and there is no admission that this subject matter is prior art. See specification at paragraphs [0001], [0023], [0036] and [0037]. There is thus no admission of prior art under MPEP §2129, and it is improper for the Office Action to base a rejection on something that is not prior art.

Furthermore, whether prior art or not, it is improper for the rejection to be based on a modification of the alleged AAPA under 35 U.S.C. §103(a). According to the Office Action, with nothing but Applicants' specification in hand, it would have been obvious to someone of ordinary skill in the art to modify the alleged AAPA to arrive at the present invention. Such

modification of Applicants' own disclosure is impermissible hindsight because, without Applicants' specification, a person of ordinary skill in the art would not be able to create the present invention. Moreover, there is no motivation to modify the alleged AAPA as asserted in the Office Action. Accordingly, a rejection under 35 U.S.C. §103(a) is improper, and it is respectfully that the rejection be withdrawn.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Steven W. Allis
Registration No. 50,532

JAO:SWA/jam

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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